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***Tax Tips for  
Photographers,  
Photo Finishers &  
Film Processing  
Laboratories  
Sales and Use Taxes***

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## CONTENTS

- 1. Applying Tax to Your Sales . . . 1**
- 2. Applying Tax to Your Purchases . . . 9**
- 3. Digital Photographic Products and Services . . . 14**
- 4. General Tax Reporting Requirements . . . 17**
- 5. For More Information . . . 20**
- 6. Appendix: *Photographic Chemicals* . . . 23**
- Reader Survey . . . 27**

## PREFACE

This publication is intended as a general guide to the Sales and Use Tax Law and Regulations as they apply to photographers, photo finishers, and film processing laboratories. In addition to addressing conventional photographic processes, it includes information on digital photography, and digital photographic products and services.

If you cannot find the information you are seeking in this booklet, please contact our 800 Number Information Center. Staff will be glad to answer your questions. The telephone numbers are on page 20.

You may also write the Board to request written advice regarding a particular transaction. For more information, see page 21.

For general information about sales and use taxes, your obligations as the holder of a seller's permit, and information on filing tax returns, see *Your California Seller's Permit*, another Board of Equalization publication (no. 73). It includes general information about obtaining a permit; using a resale certificate; reporting sales and use taxes; buying, selling, or discontinuing a business; and keeping records. If you do not already have a copy of this booklet, you may request one from the Information Center. Information on ordering this pamphlet and other publications begins on page 20.

We welcome your suggestions for improving this or any other tax tip publication. You may use the reader survey on page 27 to comment, or write:

Audit Evaluation and Planning Section MIC 40  
State Board of Equalization  
P.O. Box 942879  
Sacramento, CA 94279-0040

*Note: This pamphlet summarizes the law and applicable regulations in effect when the pamphlet was written, as noted on the cover. However, changes in the law or regulations may have occurred since that time. If there is a conflict between the text in this pamphlet and the law, any decisions will be based on the law.*

# 1. Applying Tax to Your Sales

*This chapter addresses common issues regarding the taxability of sales in photography-related businesses. It includes information on sales of products, labor charges, charges for reproduction, reproduction rights, sales in interstate and foreign commerce, sales to the U.S. Government, and certain other transactions. For more information, you may wish to obtain a copy of Regulation 1528, Photographers, Photostat Producers, Photo Finishers, and X-Ray Laboratories. Information on ordering Board publications begins on page 20.*

## Sales of photographic products

**Please note:** For more information on sales of digital products and services, see chapter 3, “Digital Photographic Products and Services,” beginning on page 14.

➡ **“Photograph,” as used in this pamphlet**

## Charges for labor and other related expenses

Sales of merchandise in California are generally subject to sales tax, including sales of such items as:

- Photographs and slides
- Proofs
- Transparencies for reproduction, copy, or duplication
- Print, slide, and movie film
- Internegatives and copy negatives
- Photo CDs
- Diskettes or other digital media containing photographic images
- Photo albums
- Photo mounting or framing supplies
- Picture frames

Some of your sales may not be taxable, as discussed later in this chapter and in chapter 4, “General Tax Reporting Requirements.”

Throughout this pamphlet, the term “photograph” is used as a generic term meaning a photographic print, slide, or negative, or an image on a digital storage medium. It does not include photographic images sold *only* as data you electronically transfer to a customer (see page 14).

Labor and overhead charges made by photo-related businesses may be taxable. For purposes of calculating sales tax, labor charges are divided into two basic categories: *fabrication labor* and *repair labor*.

### ■ Fabrication Labor

Itemized charges for fabrication labor are generally subject to sales tax. Fabrication labor is considered to be the work you perform to create or produce items such as photographs or proofs, whether you supply the materials or use materials supplied by your customer.

**Please note:** There is one significant exception for photographers and

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photo labs: *itemized* charges for developing negatives from *your customers'* exposed film are generally not taxable.

Common examples of services that relate to the sale of photographic products include:

- Printing photographs from slides or negatives
- Developing film by the reverse process method, which results in film-positive images such as slides or movies
- Mounting photographs or slides
- Matting and framing services
- Matte or lustre spraying photos you sell
- Making enlargements from prints, slides, or negatives
- Printing on customer-furnished paper
- Coloring or tinting new photos
- Negative retouching
- Shooting customer-furnished film
- Cropping photographs
- Creating slides or prints from digital images
- Digitizing images and placing them on a digital storage medium, such as a photo CD or removal cartridge disk

For more information on fabrication labor, you may wish to obtain a copy of Regulation 1526, *Producing, Fabricating, and Processing Property Furnished by Consumers — General Rules*. For more information on computer-related services, see chapter 3, "Digital Photographic Products and Services," beginning on page 14.

***Charges for overhead  
and project-related  
expenses***

Note: As a seller of photographic products or services, you are considered the end user of the items included in this list. As a result, you may not issue a resale certificate to purchase or rent the items.

Charges to your customers representing your expenses for creating a photographic product are taxable. These may include:

- Setup charges, sitting fees, and overtime charges
- Camera or other equipment rental
- Plane rental for aerial photography
- Plane fare or mileage to transport you to a job site
- Prop construction or rental
- Models' fees
- Studio rental
- Computer rental

*Please note:* If you charge a customer for these or similar services, but do not deliver a photographic product to your customer, tax does not apply to your charges.

Regulation 1524, *Manufacturers of Personal Property*, provides more information on this topic.

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***Charges for overhead  
and project-related  
charges, continued***

**Please note:** *In this example, tax is calculated at the rate of 7.25 percent, the standard statewide rate. You must use the rate in effect for your location or otherwise applicable to your sale.*

Example: An invoice for your business might include:

Five rolls of color print film	\$ 35.00
Two hours of shooting time @ \$50 an hour	100.00
Light rental	30.00
Proof sheets	30.00
Custom film processing	<u>75.00</u>
Subtotal, taxable services and products	270.00
Sales tax (\$270 x 7.25%)	<u>19.58</u>
Total for services and proofs	\$289.58

In the example above, all materials, overhead, and labor charges that produced the final product provided to the customer (proofs, in this case) are subject to tax.

■ **Repair Labor**

Your itemized charges for repairing or reconditioning an item *to restore it to its original use* are not taxable. Examples include:

- Airbrushing a customer's print to restore or repair it
- Retouching a customer's print to restore or repair it
- Other film or print processing charges that restore an item to its original use

***Other labor charges***

Other *separately stated* charges for labor that does not result in the creation or production of items you sell are not subject to tax. In your business, these may include charges for:

- Tinting or coloring a customer's print
- Developing customer-provided, exposed film to produce negatives
- Services you provide or expenses you incur for photographic services when you do not deliver any resulting photographic product to your customer
- Electronically transferring photographs by modem or wire service

*Example:* A customer brings you an old photograph that is scratched and torn. She asks you to repair the photograph and retouch it so that the scratches and tears are less visible. Your itemized charges for labor to perform these services would be considered nontaxable repair labor. However, if your customer asks you to produce five duplicate prints from the photograph after it has been restored, tax would generally apply to your charges for creating the new prints.

More information can be found in Regulation 1546, *Installing, Repairing, Reconditioning in General*.

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## **Sales of capital assets**

Sales of capital assets you have used in your business, such as camera, studio, or processing equipment, fixtures, and furniture, are subject to sales tax. If you sell your business for a lump-sum price that includes these or similar capital assets, you must report tax based on their fair market value.

## **Sales that generally are not taxable**

### **■ Sales for resale**

Sales you make to others who will resell the property they purchase are not subject to tax, provided you obtain a valid resale certificate from the purchaser. In addition, services you provide to produce a taxable product are generally not taxable when the product is purchased for resale. However, if you know that a product will be used by the purchaser before he or she resells it, you should not accept a resale certificate. All resale certificates should be retained in your records.

*Example:* Your photo lab specializes in custom, poster-size prints for retail stores. A store sends you a negative, orders a color poster for resale to its customer, and provides you with a resale certificate. Your charges for printing the poster are not taxable.

For further information, you may wish to obtain a copy of Regulation 1668, *Resale Certificates* and Publication 103, *Sales for Resale*.

## ***Sales of internegatives for resale***

You may sell an internegative for resale if you obtain a resale certificate from the purchaser. Otherwise, tax applies to your charges.

*Please note:* If your customer intends to use the internegative to produce a print or other product, he or she should not issue you a resale certificate for the internegative purchase. In addition, your use of an internegative to produce a print for a customer is generally subject to use tax (please see "Purchases subject to use tax," on page 12)

### **■ Sales in Interstate and Foreign Commerce**

#### ***In general***

The sale of prints, processing services, or other goods or services to customers residing outside California is generally not taxable, provided

- You ship the products to the customer at a destination outside the state; and
- You ship the items directly, using your own business vehicles, the U.S. Mail, or a common carrier.

Items delivered to the California office of an out-of-state firm are not eligible for this exemption. This holds true even if the products are delivered into a company's courier pack to be shipped out-of-state by common carrier.

If you ship property to a California resident at out-of-state or foreign

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destination and know that your customer intends to use the items in California within 90 days, you must collect use tax on your sale. The rate for use tax is the same as the sales tax rate for your location.

**Records**

To claim an exemption for interstate and foreign sales, you must retain records of delivery or shipment, such as shipping invoices, postage receipts, and so forth.

Sales in interstate and foreign commerce are discussed in greater detail in Regulation 1620, *Sales in Interstate and Foreign Commerce*.

***Sales of internegatives  
and similar products  
in interstate and  
foreign commerce***

Photo labs commonly use products within this state to produce photographs or similar items that will be shipped out of state. A common example is a photo finisher's use of an internegative to create a photograph when both the print and the internegative will be sold to an out-of-state customer. If you use an internegative in California *before* shipping it out of state, your *purchase or use* of the internegative is generally subject to tax, while the *sale* of the internegative itself is generally considered a nontaxable sale in interstate commerce.

If you purchase the internegative from another source, you should not use a resale certificate for your purchase. Instead, you should pay an amount for sales tax to your supplier. If you create the internegative yourself, you will owe use tax based on the cost of the materials used, unless you paid tax on those materials at the time of purchase. For more information on use tax, see "Purchases subject to use tax," beginning on page 12.

Your sale of an *unused* internegative that you ship directly to a customer located outside the state is not subject to tax.

■ **Sales to the US Government**

Sales tax does not apply to sales made to the U.S. government or its agencies. In addition, tax does not apply to sales made to certain government-related corporations, including:

- Amtrak (National Railroad Passenger Corporation)
- Federal reserve banks, federal credit unions, federal land banks, and federal home loan banks
- The American National Red Cross, including its chapters and branches

Nonetheless, tax does apply to sales you make to the National Guard, and to state, county, city, or special districts governments, including water agencies and irrigation districts.

For more information, you may wish to obtain a copy of Regulation 1614, *Sales to the United States and Its Instrumentalities* or Publication 102, *Sales to the US Government*.

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## ■ Delivery and Shipping Charges

### ***Nontaxable delivery charges***

Delivery or shipping charges for nontaxable sales are also nontaxable. Delivery charges for shipment of taxable merchandise are generally not taxable if they are *clearly stated as separate charges* on your invoice, and you ship the merchandise directly to the purchaser using the U.S. Mail, an independent contract carrier, or a common carrier, rather than your own vehicles.

If you charge your customer more than your actual (not average) cost for the delivery, the excess amount is subject to tax. For example, if you charge \$12.50 for shipping, but the delivery service charges you only \$10, tax would apply to \$2.50 of your delivery charge.

It is important that you use terms such as “delivery,” “shipping,” or “postage” on your invoice to represent delivery charges.

### ***Related charges may be taxable***

Other charges related to delivery, including charges for “handling,” are generally taxable, even if a postage or shipping amount is listed on the package.

### ***Combined charges***

If you charge a single amount that combines delivery and a related charge — “shipping and handling,” for example — you must ensure that you properly apply tax. As noted above, the portion of the charge that represents handling is generally taxable. The portion representing delivery, however, may not be subject to tax. If you:

- Ship the merchandise directly to the purchaser using the U.S. Mail, an independent contract carrier, or a common carrier; and
- Record the actual delivery, postage, or shipping cost in your books;

the delivery portion of the combined charge is not subject to tax, provided it does not exceed your delivery cost (see above).

### ***C.O.D. fees***

Tax applies to C.O.D. fees you charge your customer on a taxable sale. If, however, the C.O.D. fee is not included on your invoice, and the delivery carrier collects the fee from your customer and retains it, the fee is not subject to tax.

More information on delivery charges is contained in Regulation 1628, *Transportation Charges* and Regulation 1632, *C.O.D. Fees*.



## Charges for reproduction or other use of photographs

### **Examples: How tax applies in certain lease situations**

Please note that these are illustrative examples and should not be considered complete. Contact the Board if you need assistance.

### ■ Charge for temporary transfer of use — leases

If, for a fee, you temporarily transfer the possession and use of a photograph, the transaction is considered a lease. Charges for such leases are generally subject to tax, whether or not they include reproduction rights. If you produce your own finished photographs, your lease transactions will generally be taxable.

**Exception.** If you paid an amount for sales tax (or use tax) to another business for its charges to produce a photograph, any subsequent lease of the photograph is not taxable provided you lease it in substantially the same form as you acquired it. For example, if you pay a lab to make a custom print and you pay an amount for sales tax or use tax on the lab's printing charges, your subsequent lease of that same, unaltered print would not be taxable.

Payment of amounts for sales tax or payment of use tax on materials you use to produce a photograph — such as chemicals, film, and paper — does not relieve you of the responsibility to report tax on the lease of the resulting print. The print is a different product than those on which you paid an amount for tax.

<i>Product on which you paid an amount for tax</i>	<i>Product you lease to someone else</i>	<i>Is lease taxable?</i>
photographic print produced by someone else	the same print, unaltered	no
slide film	finished slide you process yourself	yes
print film	processed negative	yes
photographic print, film, or slide	digital media on which you have placed a digitized version of the print, slide, or film	yes
print film	print you produce yourself	yes
digitized image on digital media	print you make from the digitized image	yes
digitized image on digital media	composite image you make that includes the digital image	yes

### ■ Reproduction rights/royalties/license fees

Separately stated charges for the right to reproduce a photograph, sometimes called "royalties" or "license fees," are subject to tax if included as part of a taxable sale or lease. Tax applies whether the reproduction right is limited or unlimited.

### ■ Photographs marketed through stock photo agents

You may provide photographs to a stock photo agency to market on your behalf while you retain title to the images. Typically, such an

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agency will charge its customers a license fee or royalty for each use of the photo, and pay you a portion of each fee it receives. The payments you receive are considered taxable lease payments unless you are leasing a tax-paid photograph (see next section). You must include them in the gross sales you report on your sales and use tax return. However, if the agency provides you with a valid resale certificate, the payments you receive are considered sales for resale, and are not subject to tax. The agency must generally report tax on payments it receives for the use of your photograph.

**Payments received for the use of tax-paid photographs.** If you acquired the photograph or other product marketed by the stock agency in a transaction that was subject to sales or use tax, no tax is due on the payments made to you or to the stock agency. In addition, if the agency purchases or leases a photograph from you and you report tax on the transaction, the agency is not required to report tax on its subsequent lease income (provided it leases the photo in substantially the same form as acquired).

### ■ Sales to publications

The sale of photographs to a publication is generally considered a taxable retail sale. You should not accept a resale certificate from publishers who intend to reproduce your photographs in publications they will sell. (The sale of a publication containing a reproduction of a photograph is not considered resale of the photograph itself.)

### ■ Services rendered as an independent contractor

You may work as an independent contractor for a newspaper or periodical, supplying exposed film, digital images on storage media, slides, or photographs for a fee. If the purpose of your work is to provide photographs, amounts you receive for your services — whether you are paid on commission, on an hourly basis, or on retainer — are subject to tax. If you provide images to the newspaper or periodical solely by electronic data transmission, fees you receive for your services or images are not taxable.

### ■ Photographs sold with your written material

Tax applies to the sale of photographs that accompany an article you have written. If your invoice states a separate price for the photographs, that separate amount is subject to tax. If you sell the article and the photographs together for one lump-sum amount, the entire amount is taxable.

## 2. Applying Tax to Your Purchases

*Some of your purchases may be subject to sales or use tax. This chapter addresses purchases common to photography-related businesses. It includes information on purchases of film, services, chemicals, and supplies. The chapter also contains a section on the application of use tax to your purchases. For more information, you may wish to obtain a copy of Regulation 1528, Photographers, Photostat Producers, Photo Finishers, and X-Ray Laboratories. Ordering information begins on page 20.*

### Purchases for resale

#### ■ General

Generally, you may use a resale certificate to purchase products you will sell, or materials that become ingredients or component parts of those products. Examples include:

- Slide mounts
- Certain chemicals, as discussed later in this chapter and shown in the Appendix
- Film, under certain circumstances
- Mounting and matting materials that become a part of the product you sell, including dry mounting film, mounting sprays, matboard, mounting tape, mounting board, and so forth
- Frames and framing materials
- Spray coatings
- Photographic paper
- Digital storage media you will resell rather than use in your business (diskettes, removable cartridge disks, CDs, optical disks). For more information, see also chapter 3, "Digital Photographic Products and Services."

#### ■ Film

##### ***For resale***

You may use a resale certificate to buy any film you will sell unexposed to customers.

##### ***For your own use***

When you buy film to expose and process, whether you may use a resale certificate generally depends on the final product you will sell. Definitions of the different types of film, and a table showing how tax applies to your film purchases, are found below and on the next page.

##### ***Definitions — types of film***

**Color-reversal films.** These films, when developed, generally become positive transparencies, slides, or movies. The film itself does not become a part of subsequent prints.

***Issuing resale  
certificates for film  
purchases***

**Negative films.** These films, when developed, usually become negative transparencies which are used to make prints. The film itself does not become a final ingredient or part of the prints.

**Polaroid-type films.** These films are products that use the Polaroid process to become prints “instantly” after exposure.

<i>Type of film</i>	<i>Final product you will sell to customer</i>	<i>Issue resale certificate for purchase?</i>
color-reversal	slides or movies only	yes
	prints	no
negative	negatives only	yes
	prints	no
Polaroid	Polaroid prints	yes <sup>1</sup>

<sup>1</sup> If you use Polaroid film to check exposure or for another purpose and do not sell the Polaroid prints to your customer, you may not issue a resale certificate.

*Please note:* If you pay an amount for sales tax or use tax on a film purchase but resell the film prior to using it, you may take a deduction on your sales and use tax return, under “Tax Paid Purchases Resold Prior to Use” (see page 18).

### ■ **Internegatives**

You should not submit a resale certificate when purchasing internegatives, copy negatives, or similar products when you will use them to create prints or other merchandise. However, if you intend to resell an internegative to a customer before using it to make a print or other product, you may issue a resale certificate for your purchase.

### ■ **Outside fabrication labor**

You may pay labs, other photographers, or other businesses to produce all or part of the final product you will sell. In these instances, you may issue a resale certificate to your supplier. Examples include:

- Kodachrome film processing (when you sell the slides)
- Mounting and framing prints
- Transferring photographs or slides to a photo CD

*Example:* At an event where you are taking photographs, a contestant selects an image from proofs you display and orders a framed print. You send the negative out to be printed and framed, and issue resale certificates for those services. You must report tax on the sale of the finished, framed print, based on your selling price.

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*Please note:* You may not use a resale certificate to pay for outside fabrication labor unless the resulting product is physically incorporated into the finished product you sell.

### ■ Chemicals

You may purchase for resale only those chemicals that become a component part of the finished products you sell. Other photographic chemicals, including those used to develop negative film, are generally subject to tax at the time of purchase.

A representative list of chemicals that can be purchased for resale, and chemicals on which you must pay an amount for sales or use tax to your supplier, is found in the Appendix, on page 23. Examples explain how tax may apply to your chemical purchases.

### ■ Packaging supplies

You may use a resale certificate to purchase packaging supplies such as wrapping paper, paper bags, and boxes, when you will use those supplies to wrap merchandise you sell.

### ■ Supplies not incorporated into finished products

You may not purchase developing and printing supplies for resale if they do *not* become an ingredient or component of products you sell. Examples include:

- Mask charts
- Negative glassines
- Sensitized test sheets
- Tapes — masking, black photographic, splicing, gummed, filament, red cellophane, process control, and so forth

### ■ Other photographic or business equipment, supplies, and materials

In general, you may not furnish a resale certificate when buying supplies, materials, and equipment you use in your business but do not sell — such as photographic processing equipment, camera equipment, computer hardware and software, bookkeeping supplies, order forms, display fixtures. If you buy such items from an out-of-state supplier without paying California use tax, you must report use tax to the Board on your purchase (see next page). If you later sell any of the equipment, supplies, or materials at retail, you must report sales tax on the transaction (see “Sales of capital assets,” on page 4).

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## **Purchases subject to use tax**

### **■ Equipment leases and rentals**

You may rent or lease equipment for your business on a short- or long-term basis. You may not use a resale certificate for such leases and rentals because the equipment does not become a part of the final products you sell. As discussed in the previous chapter, charges you pass on to your customer for equipment rental necessary to produce photographs are subject to sales tax.

If you purchase taxable items for resale without paying an amount for California sales tax and use the property for another purpose, you generally must report *use tax* on the purchase price. The rate for use tax is the same as the sales tax rate in effect for your location. “Purchases subject to use tax” should be reported on the line of that same name on your sales and use tax return.

The sections below describe typical situations in which use tax applies to purchases.

### **■ Merchandise purchased for resale, but used for other purposes**

If you purchase merchandise for resale without paying tax, but use it for other business or personal purposes, you must pay use tax on the purchase. Taxable uses include:

- Use of a product not incorporated into items you sell
- Donations (Donations to certain charitable organizations may be tax-exempt. Please call our Information Center for further information — see page 20.)
- Gifts to friends, employees, or others
- Personal use

*Please note:* If you know at the time of purchase you will *not* resell merchandise, your purchase is subject to sales tax. You should not give your supplier a resale certificate.

### **■ Use of intermediate photographic items to create new products you sell**

If you create items such as internegatives or copy negatives and use them to make new products, such as prints, your use of the internegative or copy negative is generally subject to use tax. You must report use tax based on the cost of the materials used. If you purchased the items in a taxable transaction, no use tax is due. In addition, if you charge your customer separately for the internegative, you must generally report sales tax on those charges.

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If you purchase an internegative without paying an amount for sales tax at the time of purchase, and use it to create new products, you will owe use tax based on the internegative's purchase price. If you pay an amount for sales tax at the time of purchase, no use tax is due.

### ■ Items used for demonstration and display

Merchandise you use exclusively for demonstration and display while it is also for sale is not subject to use tax. Sales tax applies when the item is sold.

However, if you use a demonstration or display item for any additional purpose, including personal use, you must report the purchase price under "Purchases Subject to Use Tax" on your sales and use tax return. Again, sales tax applies to subsequent retail sale of the merchandise.

For more information, you may wish to obtain a copy of Regulation 1669, *Demonstration, Display, and Use of Property Held for Resale — General*, available from the Board's Information Center (see page 20).

### ■ Purchases from out-of-state retailers

In general, if you purchase taxable merchandise from an out-of-state retailer (without paying California use tax) and use the merchandise for a purpose other than resale, the purchase is subject to use tax and must be reported to the Board.

Some out-of-state retailers are authorized to collect and pay California use tax. If your sales receipt indicates that the correct amount of California use tax has been collected on your purchase, you do not need to report that purchase on your return.

**Credit for payment of another state's tax.** If you were required to pay, and did pay, another state's sales tax on a purchase on which you will owe California use tax, you may receive a credit against your use tax liability by

- Reporting the amount of the purchase under "Purchases subject to use tax;" and
- Deducting the amount of tax paid under "Sales and use taxes imposed by other states" on your return. You may claim a deduction up to the amount of California use tax due on the purchase.

*Please note:* You may not claim this deduction as a credit against your sales tax liability.

### 3. Digital Photographic Products and Services

*This chapter describes how sales tax applies to digital photographic services and products. Charges for digital services that create products sold to customers are generally subject to tax, as are the products themselves. There are, however, circumstances in which tax does not apply. Details are found below.*

**Important note:** Digital images you electronically transfer directly to your customers' computer *hard drives* are not considered tangible items or merchandise for sales and use tax purposes. Your charges for the production, sale, or use of such images are not subject to tax. However, if you transfer the image to portable media (yours *or* the customer's); provide a "back-up" copy on portable storage media; or provide your customer with a physical copy of the image, your entire transaction is taxable, as explained below. See also "Records," page 19.

#### Taxability of sales

##### ■ Products

Sales of digital storage media, including those containing photographic images, are subject to sales tax. In addition, sales of photographic products you produce and sell after digitally editing the images are taxable. Examples of taxable items sold by photographic businesses include:

- Photo CDs
- Diskettes
- Magneto-optical disks
- Removable cartridge disks
- Photographic output — slides, prints, and so forth — from images on disk
- Digital or print output from digital images, including images provided by your customer
- Digital or photographic output produced from scanned images, including images provided by your customer

##### ■ Reproduction rights and leases

Tax generally applies to charges for the use of photographic images stored on digital media in the same manner as it does to use of photographs existing in other formats. Please remember, however, that a digital image does not exist in substantially the same form as a physical print. If you digitize a print you acquired in a taxable transaction, lease payments you receive from the lease of the digital image are generally subject to tax. This would be true even if the visual images were identical.

*More information on lease payments and reproduction rights is found in chapter 1.*



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## ■ Services and related charges

### ***Taxable services***

Services you perform to provide photographic products to customers in digital or physical form are subject to tax, provided

- The end product you sell is a physical item such as a print or slide; or
- The end product you sell, if digital, is provided on a digital storage medium, such as an optical disk or CD (including digital storage media supplied by your customer).

Typical taxable services include:

- Scanning prints or slides for placement on digital storage media
- Making prints or slides from digital images provided by customers
- Charges for shooting with a digital camera
- Placing a customer's photographic images on photo CD

Although you may separate charges for your computer-related services from charges for the storage medium itself, all charges are subject to tax.

*Example:* A customer brings you ten slides, requesting that you scan them and place them on a removable cartridge disk (which, in this case, you will provide). She also asks you to make prints of three of the images. Your charges for the disk, the prints, scanning the slides, and any related processing services are subject to tax, whether you itemize the charges or bill in a lump sum.

### ***Nontaxable services***

Modifications to digital images provided by a customer are not taxable, provided you do not produce new tangible property such as a print or slide from the image. A typical example would be the use of image editing software to enhance a customer-provided digital image.

In addition, your charges for electronically transferring a digital image to a customer's computer are not subject to tax.

*Examples:* Your customer provides images on disk and asks you to change their background color. You edit the images, show the result to your client on screen, and return the disk without any hard copy output. In this case, your charges would not be taxable.

A customer asks you to scan slides, modify the images, and transmit them to the computer in her studio by modem. None of your charges would be taxable.

In both examples, the services provided do not result in the creation of tangible personal property.

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## Taxability of purchases

Please note: *More detailed information on applying tax to your purchases, including information on use tax, is found in the previous chapter. This section is intended to supplement that chapter.*

### ■ Sales and services for resale

Sales of digital products and services for resale are handled in the same way as other sales for resale. You may accept a resale certificate from your purchaser if they will resell the item purchased before using it.

### ■ Digital storage media

You may purchase digital storage media such as CDs, diskettes, removable cartridge disks, and optical disks for resale if you will sell those products to your customers (with or without digital images). However, if you will use a digital storage product only to produce items such as slides or prints, you may not use a resale certificate when you purchase the storage product.

*Example:* You rent a digital camera, use it to shoot images of houses for a real estate company, and provide the images to the company on a removable cartridge disk. You may purchase the removable cartridge disk for resale. All of your charges to the company, including any charge for the camera rental, would be subject to sales tax.

### ■ Computer hardware and software

Purchases of computer hardware and software you will use in your business rather than resell are subject to tax.

### ■ Digital services

If you pay others to perform taxable digital photographic processes that produce all or part of an end product you will sell, you may issue a resale certificate to your supplier for those services. If you will use the product you buy, the transaction is taxable. If your supplier does not apply tax to the transaction, you will owe use tax based on the purchase price (see previous chapter).

*Example:* Your pay another business to make a slide from a digital image, and then sell the slide to a newspaper. In this instance, you may issue a resale certificate to the business for its charges.

However, if you will use the slide to make a print *before* selling the slide to the newspaper, sales or use tax will apply to your slide purchase.

In either case, you must report sales tax on the sale of the slide itself.

## 4. General Tax Reporting Requirements

*This chapter is intended to give you general information on reporting sales and use tax on your return. It also includes information on your invoicing your customers; on applying tax to credit sales and sales of capital assets; and on deductions and exemptions you may claim on your return. For more information, you may wish to refer to pamphlet 73, Your California Seller's Permit. If you do not already have a copy of that publication, you may obtain one from the Board (see page 20).*

### Including an amount for tax in your charges

Although you are responsible for reporting and paying sales tax to the Board, you may collect from your customers an amount equal to the tax you will owe on each retail sale (sales tax “reimbursement”). You may add this amount to the price of your taxable services and products, being sure to itemize it on your invoices or receipts. Or, you may include it in your charges. If you choose the latter method, you must either post a visible sign stating, “All prices of taxable items and services include sales tax reimbursement calculated to the nearest mill,” or include a similar statement on your sales invoices or receipts.

### Tax due with your return

All of your sales, including nontaxable sales, must be reported on your sales and use tax return. The tax due with each return is based on your total gross receipts for the period less deductions for allowable nontaxable sales and other adjustments. (Some common exemptions and deductions are discussed later in this chapter). You may not deduct any expenses related to your services — such as travel expenses, model fees, phone charges, equipment rentals, and so forth — from your gross receipts.

#### ■ Credit sales and installment payments

Tax is due for the period in which a sale takes place — when title to or possession of the product sold transfers to your customer — regardless of when you receive payment. Consequently, deposits you receive from customers for future delivery of photographs should not be reported until the sale is complete.

*Example:* As a wedding photographer, you customarily take deposits for your services, requiring 50 percent of your payment in advance and 50 percent when you deliver the photographs to the customer. You may charge \$1000 for photographs of a June wedding, taking a deposit of \$500 from a customer in March. The customer pays the balance due on delivery of the photographs in June. The entire \$1000 charge must be reported on your sales and use tax return for the period including the month of June.

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## Deductions and exemptions

### ■ Sales for resale

As discussed in chapter 1, sales for resale are not subject to tax, provided you obtain a valid resale certificate from the purchaser. Sales for resale should be deducted from your gross sales on the appropriate line of your sales and use tax return. For more information on sales for resale, see page 4.

### ■ Tax-paid purchases resold prior to use

If you resell an item you purchased in a taxable transaction, you may claim a deduction equal to your purchase cost if you did not use the item prior to selling it.

*Example:* You buy five rolls of slide film you intend to use for prints and pay an amount for sales tax on the purchase. However, rather than use the film to make prints, you use it for a job where slides are the final product you sell. You may claim a deduction for the amount you paid for the film, under “Cost of tax paid purchases resold prior to use.”

### ■ Other common deductions and exemptions

As described in chapter 1, “Applying Tax to Your Sales,” certain sales are not subject to sales and use tax. You may take a deduction on your sales and use tax return for these sales, including:

- Nontaxable labor and service charges (see page 3)
- Certain sales in interstate and foreign commerce (see page 4)
- Sales to the U.S. government (see page 5)
- Cash discounts on taxable sales

### ■ Bad debts

If you have reported tax on a sale and have been unable to collect payment, you may claim a deduction for the bad debt. Bad debts may take the form of

- Checks returned unpaid by the purchaser’s bank that you have determined to be uncollectible; or
- Accounts from charge or credit sales found worthless

The bad debts must be charged off for income tax purposes, or, if you are not required to file income tax returns, charged off in accordance with generally accepted accounting principles.

You should claim the deduction on the return filed for the period in which the amount was found worthless and written off. If the tax rate has changed since you made the sale, you must adjust the amount of

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the bad debt deduction to conform to the tax rate in effect at the time of the sale. You cannot deduct amounts you paid to collect the funds due.

If you later collect the money due for a bad debt (including worthless checks), any amount you previously claimed as a deduction must be reported as a taxable sale.

*Please note:* There are many rules governing deductions for bad debt losses. Consequently, you may wish to request a copy of Regulation 1642, *Bad Debts*, or contact the Board's Information Center.

## **Records**

You should be sure to keep complete records documenting your sales and purchases. For nontaxable transactions, those records should clearly indicate the reason the transaction was not subject to tax. If you transfer photographic images electronically, for example, you should retain some evidence that such a transfer occurred. This could take the form of a customer's acknowledgment of receipt of an electronic file or an indication on your invoice that the image was transferred by modem or cable to the customer's hard drive.

For more information on recordkeeping, please see publication 73, *Your California Seller's Permit*, or Regulation 1698, *Records* (see page 20).

## 5. For More Information

### General Tax Questions

If you have a general tax question, please call our toll-free number and talk to one of our Customer Service Representatives. They are available from 8:00 A.M. to 5:00 P.M., Monday-Friday, excluding State holidays. Please call:

**1-800-400-7115**

For TDD assistance (telephone device for the deaf), please call:

*From TDD phones:*

1-800-735-2929

*From voice phones:*

1-800-735-2922

### Questions Regarding Your Account

Please call the office that maintains your records. The name and telephone number of the appropriate office is printed on your tax returns. Field office telephone numbers are provided on page 22.

### To Verify a Seller's Permit Number — *resale certificates*

If you wish to verify the seller's permit number for a business that gives you a resale certificate for their purchase, you may use our interactive service on the Internet (see next page), or call us at 1-888-225-5263 (toll-free), seven days a week. Please have on hand the seller's permit number you wish to verify, the business name, business address, and business owner's name.

### Fax-Back Service

Our fax-back service, which allows you to order selected forms and publications, is available 24 hours a day. Call 1-800-400-7115 and choose the fax option. We'll fax back to you within 24 hours.

### Publications and Regulations

To obtain copies of publications and regulations, you may:

**Call our Information Center.** A customer service representative will help you during working hours. If you know the name of the publication, form, or regulation you need, you can call outside of working hours and leave a recorded message. Certain documents are also available on our fax-back service, described above.

**Send a fax request.** You can request forms and publications by sending a fax to 916-322-2015.

**Use the Internet.** Certain regulations and publications are available on our Internet home page. See next page.

**Regulations.** The following regulations may be of interest to you:

**1528** *Photographers, Photostat Producers, Photo Finishers and X-Ray Laboratories*

**1540** *Advertising Agencies, Commercial Artists and Designers*

**1541** *Printing and Related Arts*

**1614** *Sales to the United States and Its Instrumentalities*

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***Publications and  
Regulations  
(continued)***

<b>1620</b>	<i>Interstate and Foreign Commerce</i>
<b>1628</b>	<i>Transportation Charges</i>
<b>1641</b>	<i>Credit Sales and Repossessions</i>
<b>1642</b>	<i>Bad Debts</i>
<b>1668</b>	<i>Resale Certificates</i>
<b>1698</b>	<i>Records</i>
<b>1700</b>	<i>Reimbursement for Sales Tax</i>
<b>1821</b>	<i>Forward — District Taxes</i>

**Publications.** You may find the following publications to be helpful. The letter V, K, C, or S following a publication indicates the pamphlet is available in Vietnamese, Korean, Chinese, or Spanish:

<b>37</b>	<i>Tax Tips for the Graphic Arts Industry</i>
<b>38</b>	<i>Tax Tips for Advertising Agencies</i>
<b>44</b>	<i>Tax Tips for District Taxes</i>
<b>46</b>	<i>Tax Tips for Leasing of Tangible Personal Property in California</i>
<b>51</b>	<i>Guide to Board of Equalization Services (C)</i>
<b>58A</b>	<i>How to Inspect and Correct Your Records</i>
<b>61</b>	<i>Sales and Use Taxes: Exemptions and Exclusions</i>
<b>70</b>	<i>The California Taxpayer's Bill of Rights (S,C,K,V)</i>
<b>73</b>	<i>Your California Seller's Permit (S,C,K,V)</i>
<b>74</b>	<i>Closing Out Your Seller's Permit (S,C,K,V)</i>
<b>75</b>	<i>Interest and Penalty Payments</i>
<b>76</b>	<i>Audits and Appeals (S,C,K)</i>

***Tax Information  
Bulletin***

As a registered seller, you also receive the quarterly *Tax Information Bulletin*, which includes articles on the application of law to specific types of transactions, announcements regarding new and revised publications, and other articles of interest to sellers. The bulletin is mailed with your sales and use tax return(s). If you file only once a year and would like to receive all four bulletins, please write to the following address and ask to be added to Mailing List #15: Mail Services Unit, MIC:12; Attn: Addressing Systems; State Board of Equalization; P.O. Box 942879; Sacramento, CA 94279-0012.

**Computer Access  
— Internet  
[www.boe.ca.gov](http://www.boe.ca.gov)**

We maintain the following information on our Internet site: sales and use tax rates by county, Board field office addresses and telephone numbers, Taxpayers' Bill of Rights Hearings, publication order forms, an agency profile, and Board Member biographies. You can also verify seller's permit numbers on-line and download copies of selected publications. Enter <http://www.boe.ca.gov>

**Written Tax Advice**

For your protection, it is best to get tax advice in writing. You may be relieved of tax, penalty, or interest charges that are due on a transaction if the Board determines that it gave you erroneous written advice regarding the transaction and that you reasonably relied on that advice



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## Written Tax Advice, (continued)

in failing to pay the proper amount of tax. For this relief to apply, a request for advice must be in writing, identify the taxpayer to whom the advice applies, and fully describe the facts and circumstances of the transaction.

Please send your request to the Board office that handles your account.

## Classes

You may enroll in a basic sales and use tax class offered by some local Board offices. You should call ahead to find out whether your local office conducts a class for beginning sellers.

## Taxpayers' Rights Advocate

If you have been unable to resolve a disagreement with the Board, or if you would like to know more about your rights under the Sales and Use Tax Law, please contact the Taxpayers' Rights Advocate office for help:

Taxpayers' Rights Advocate Office, MIC: 70  
State Board of Equalization  
P.O. Box 942879  
Sacramento CA 94279-0070  
Phone: 888-324-2798 toll-free  
916-324-2798  
Fax: 916-323-3319

## Other Board- Administered Taxes and Fees

The Board administers many tax and fee programs in addition to the state's sales and use taxes. For a complete listing, please request a copy of our publication 51, *Guide to Board of Equalization Services*.

## Field Offices

City	Area Code	Number	City	Area Code	Number
Bakersfield	805	395-2880	San Francisco	415	396-9800
City of Industry	562	908-5280	San Jose	408	277-1231
Culver City	310	342-1000	San Marcos	760	744-1330
El Centro	760	352-3431	Santa Ana	714	558-4059
Eureka	707	445-6500	Santa Rosa	707	576-2100
Fresno	559	248-4219	Stockton	209	948-7720
Laguna Hills	949	461-5711	Suisun City	707	428-2041
Norwalk	562	466-1694	Torrance	310	516-4300
Oakland	510	622-4100	Van Nuys	818	904-2300
Rancho Mirage	760	346-8096	Ventura	805	677-2700
Redding	530	224-4729	<b><i>For Out-of-State Accounts</i></b>		
Riverside	909	680-6400	Chicago, IL	312	201-5300
Sacramento	916	227-6700	Houston, TX	281	531-3450
Salinas	831	443-3003	New York, NY	212	697-4680
San Diego	619	525-4526	Sacramento, CA	916	227-6600



## 6. Appendix: Photographic Chemicals

### Basic categories of photographic chemicals

You may purchase any photographic chemical for resale if you will sell it unused to your customers. However, when you buy chemicals to use in film or print processing, other criteria determine whether you may issue a resale certificate to your supplier.

Certain chemicals used in processing photographic film and prints become a physical part of the processed film or print. Under certain circumstances, you may purchase these chemicals using a resale certificate when you will use them in processing photographic products you sell (see below).

Other photographic chemicals perform a processing function but *are not* physically incorporated into the finished film or print. You cannot purchase these chemicals for resale unless you plan to sell them as is.

Page 25 shows categories of film chemicals and indicates which are incorporated into photographic products and which are not.

#### ■ Buying chemicals that become a physical part of the processed film or print

You may purchase for resale those chemicals that are physically incorporated into your processed film or prints during processing, provided:

- You are buying the chemicals to use in processing film, slides, or prints that you will sell directly to your customer, *and*
- You do not make any use of the film, slides, or prints before you sell them to your customer.

If you use a photographic product *before* you sell it to your customer, you generally may not purchase for resale any chemicals that you use in creating that product (for example, an internegative you use to make prints). However, if you pass title to the intermediate product to your customer before you use it, you may purchase for resale those chemicals that are physically incorporated into the product (see example 4, next page).

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## ■ Examples: purchasing chemicals for resale

### ***1. Photo lab that processes film and makes prints***

As the owner of photo lab, you purchase chemicals you will use in processing negative film and in developing the final prints you sell. You may not purchase negative film-processing chemicals for resale because you are considered the end user of the negatives you develop. However, you may issue a resale certificate when you buy processing chemicals that will be physically incorporated into the final prints you sell.

### ***2. Freelance photographer who sells slides***

You are a free-lance photographer who sells mounted slides directly to outdoor magazines without first making prints. You may issue a resale certificate to purchase the processing chemicals that will be physically incorporated into the finished slides you process and sell.

### ***3. Photo lab developing negative film***

Your photo lab performs negative development of customer-furnished, exposed film, an activity that is not subject to sales tax. You are considered the consumer of the chemicals you use in developing the negative film, even if the chemicals are physically incorporated into the finished negatives. Therefore, you cannot issue resale certificates when buying those chemicals.

### ***4. Photo processor with contract that passes title to working products to customer prior to use***

Your contract with a customer provides that title to all intermediate working products passes to the customer prior to their use. You make an internegative for the customer and use it to produce a print. Since you have passed title to the internegative to the customer prior to use, you may purchase for resale those processing chemicals that will be physically incorporated into the internegative.

### ***5. Photo supply store that sells chemicals and offers in-house processing***

You own a photographic supply store that sells film, cameras, chemicals, and other photographic materials. The store also provides in-house custom film-processing and printing services. You may buy for resale any chemicals that you will sell directly to your customers.

However, for those chemicals you will use in your own darkroom, the other principles set forth here apply (see previous page and other examples). If you buy full cases of chemicals that you both sell to customers and use in your darkroom, you may want to follow one of the following practices:

- Purchase all of your chemicals tax-paid and then claim a “tax-paid purchases resold prior to use” deduction for those chemicals you sell in your store (see page 18); or
- Purchase all of your chemicals for resale, then pay use tax for those chemicals you use in a taxable manner in your darkroom.

■ **Chemicals that are physically incorporated into photographic film or paper during processing**

<i>Photographic products</i>	<i>Types of chemicals that are physically incorporated into products during processing</i>
black and white negatives	fixers with hardener toners
black and white prints	fixers with hardener toners
color negatives	color developer/replenisher stabilizer/replenisher
color prints	color developer/replenisher stabilizer/replenisher
color slides or movies	color developer/replenisher final rinse/stabilizer/replenisher
color reversal paper	color developer/replenisher final rinse/stabilizer/replenisher

■ **Chemicals that are not physically incorporated into film or prints during processing**

Examples include:

- Black and white developer/replenisher
- Activator
- Stop bath
- Reducer
- Cleaners
- Fixers (without hardener)
- First developer/replenisher
- Reversal bath/replenisher
- Color bleaches
- Developer starter
- Prebleach/replenisher
- Bleach fix/replenisher
- Bleach starter

## *What do you think of this pamphlet?*

We hope that this newly revised tax tip pamphlet will help you to better understand the Sales and Use Tax Law as it applies to your business.

We would appreciate it if you could take a few minutes to give us your comments and suggestions for this pamphlet, so that we can improve future revisions. We'd also like to have some information that will help us make our publications program more useful to you. Please answer the questions below and on the reverse, remove the page, and return it to us. It is designed as a postage-paid self-mailer: you may fold the page as indicated and seal it with two pieces of tape.

Thank you for taking the time to respond to this survey.

### **Pamphlet Comments and Suggestions**

1. Does this pamphlet help you apply the sales and use tax in your business operations?
2. Are there any sections of the pamphlet that you find particularly helpful? (please note)
3. Are there any sections of the pamphlet that you find confusing? (please explain, if possible)
4. Are there any topics not addressed in this pamphlet that you would like us to include?
5. Are there any sections of the pamphlet that you feel are incomplete? What would you add to them?
6. Do you have any other comments or suggestions for improving this pamphlet?

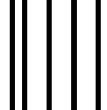
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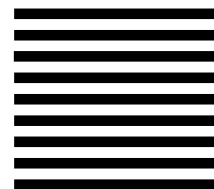


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### Reader Survey Information (please check all boxes that apply)

What is the nature of your business?

How long have you been in business?

- ☐ less than one year    ☐ 1-5 years  
☐ 6-10 years    ☐ more than 10 years

Did you receive a copy of this pamphlet (or an earlier version) when you applied for or received your seller's permit?

- ☐ yes    ☐ no    ☐ not sure

How did you find out about this pamphlet?

- ☐ Board field office  
☐ Board auditor  
☐ Tax Information Bulletin  
☐ Publications listing in a Board pamphlet  
☐ Other (please list) \_\_\_\_\_

Where did you obtain this pamphlet?

- ☐ Board field office  
☐ Board auditor  
☐ Board 800 Number Information Center  
☐ Other (please list) \_\_\_\_\_

Do you use any other Board publications to help you apply or understand the California Sales and Use Tax Law? (please list) \_\_\_\_\_

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